

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 554 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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HUSEN MAMD KAKKAL

Versus

STATE OF GUJARAT

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Appearance:

MR PM THAKKAR for Petitioner

MR MA BUKHARI, APP for Respondent No. 1

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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 22/09/97

ORAL JUDGEMENT

The appellant of this appeal came to be convicted in Sessions Case No. 103/94 when he along with his co-accused one Ranjit Kalabhai was facing charge of committing robbery between sunset and sunrise. Nodoubt, the charge at exh.1 is only shown to be under sec.397 of IP Code, is also for offences under sec.342 and 34 of IP Code.

The short case of the prosecution was that on the night of 20.10.1992 at about 8.30 p.m., rickshaw of the complainant bearing registration No. GJ-3T-4946 was

taken on hire under the pretext of bringing the mother of the accused to the maternity hospital because wife of one of the accused was admitted in the hospital. Rickshaw was taken from petrol pump of Paddhari village and was taken on a cart track towards village Bodigodi and on way to the said village, under the pretext of making urine, accused made the rickshaw-driver complainant to halt the rickshaw. Thereafter, making use of the knife, they released the complainant of cash amount of Rs. 60/ and putting him in a room nearby the field, they ran away with rickshaw worth Rs. 35,000/.

Ld. Addl. Sessions Judge, Rajkot who tried the Sessions Case No. 103/94, by his judgment dated 29.3.1995, convicted both the accused and so far as the appellant is concerned, he was awarded R/I for 7 years.

As no prejudice seems to have been caused in the defence of the accused, the said point relating to non-framing of charge under sec.392 of the IP Code and only the charge under sec.397 of IP Code having been framed, is not likely to help the accused much.

However, I am not required to go into the details of the matter because Ld. Sr.Advocate Mr. Thakkar who has been appointed by the Court to argue the matter on behalf of the appellant accused, has received post-card from the appellant. The post-card is dated 18.8.1997 and is to the effect that on account of the Golden Jubilee Celebration of Indian Independence, special remission orders having been passed, the appellant has got benefit of it and he is out of jail.

Taking the said post-card on record, nothing further requires to be done in the matter as appeal has become infructuous. Hence, appeal is disposed of as infructuous.

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